

REMARKS

Claim 25 has been amended to require the oil globules to be free of a lamellar liquid crystal coating. Support for this amendment exists throughout the specification, including page 2, lines 15-18 and the examples.

Claims 25-53 are currently pending, although claims 44-53 have been withdrawn from consideration. Upon indication of allowable subject matter, Applicants intend to seek rejoinder of claims 44-53, all of which ultimately depend from claim 25, under MPEP 821.04.

The Office Action rejected the pending claims under 35 U.S.C. § 103 as obvious over U.S. patent 5,753,241 ("Ribier I") in view of U.S. patents 5,658,575 ("Ribier II"), 5,011,922 ("Matsumoto"), 5,698,219 ("Valdivia") and 6,669,849 ("Nguyen"). In view of the following comments, Applicants respectfully request reconsideration and withdrawal of these rejections.

The Office Action recognized that Ribier I does not teach nanoemulsions containing surfactants, ophthalmic nanoemulsions, or nanoemulsions having the required turbidity. (Office Action, page 5). To compensate for Ribier I's failure to teach or suggest the claimed surfactant, the Office Action asserted that Ribier II discloses sucrose distearate, and that it would have been obvious to combine Ribier I and Ribier II to yield the claimed invention. However, this assertion misses the point.

Ribier II requires the presence of oil globules having a lamellar liquid crystal coating. This coating is formed using compounds like sucrose distearate. (See, abstract). Thus, Ribier II teaches forming a lamellar liquid crystal coating using sucrose distearate. In other words, Ribier II neither teaches nor suggests adding sucrose distearate to compositions which do not

have oil globules coated with a lamellar liquid crystal coating. In stark contrast, the claimed invention requires the oil globules to be free of such a coating. Accordingly, Ribier II cannot teach or suggest the claimed invention which requires the presence of both the required surfactant and non-coated oil globules.

In view of the deficiencies in Ribier I and Ribier II, the combination of these references cannot yield the claimed nanoemulsions having both the required surfactant and the required non-coated particles. Rather, such a combination would necessarily result in compositions containing coated oil globules.

The tertiary references, Matsumoto, Valdivia and Nguyen, cannot compensate for these fatal deficiencies. None of these references would lead one skilled in the art to modify Ribier I and Ribier II in such a way as to yield the claimed invention.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. § 103.

The Office Action also issued numerous double patenting rejections of claim 25. In view of the following comments, Applicants respectfully request reconsideration and withdrawal of these rejections.

None of the claims in the references relied upon by the Office Action teach or suggest the nanoemulsions of claim 25 having both the required surfactant and the required non-coated oil globules, nor would any of these claims have motivated one skilled in the art to modify such claimed subject matter in a manner sufficient to yield the presently claimed invention.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the double patenting rejections.

The Office Action also objected to the oath/declaration, asserting that correct citizenship of the inventors has not been indicated. Applicants respectfully submit that such citizenship has been properly indicated. French citizenship properly identifies the inventors as being from France. That the oath/declaration is sufficient is evidenced by the fact that the same declaration was submitted in the parent case, U.S. patent application serial no. 09/460,092, and the parent case issued as U.S. patent 6,689,371. Clearly, the oath/declaration was sufficient for the parent case, meaning that it is sufficient for the present application as well.

Finally, Applicants respectfully request consideration and indication of such consideration of the references submitted with the Information Disclosure Statement filed December 2, 2003. For the Examiner's convenience, attached is a copy of the Form 1449 submitted with the IDS.

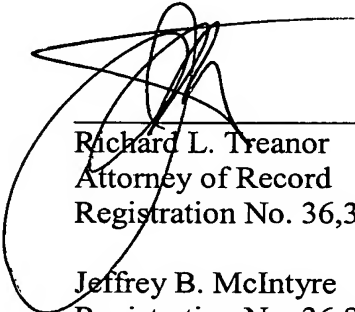
In view of the above, Applicants respectfully request reconsideration and withdrawal of the objection to the oath/declaration.

Application No. 10/724,826
Response to Office Action dated March 29, 2007

Applicants believe that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

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PATENT AND TRADEMARK OFFICE

ATTY DOCKET NO.

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SERIAL NO.

New Continuation Application

LIST OF REFERENCES CITED BY APPLICANT

APPLICANT

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FILING DATE

HEREWITH

GROUP

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
	AA	6,117,415	09/12/00	Schwarz			
	AB	5,753,241	05/19/98	Ribier, et al.			
	AC	5,658,575	08/19/97	Ribier, et al.			
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						
	AL						
	AM						
	AN						

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION	
					YES	NO
	AO	EPO 728460	08/28/96	Europe (English Abstract Provided)		X
	AP					
	AQ					
	AR					
	AS					
	AT					
	AU					
	AV					

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)

	AW	WP Index Abstract of EP-728460A1 (08/1996), AN: 1996-394823, Legret				
	AX					
	AY					
	AZ					<input type="checkbox"/> Additional References sheet(s) attached

Examiner

Date Considered

*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.